

AMENDED IN SENATE AUGUST 18, 2010  
AMENDED IN SENATE AUGUST 2, 2010  
AMENDED IN SENATE JUNE 24, 2010  
AMENDED IN ASSEMBLY JUNE 1, 2010  
AMENDED IN ASSEMBLY MAY 6, 2010  
AMENDED IN ASSEMBLY APRIL 27, 2010  
AMENDED IN ASSEMBLY MARCH 24, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1676**

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**Introduced by Assembly Member Fuentes  
(Coauthors: Assembly Members Jeffries and Solorio)**

January 21, 2010

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An act to add Section 1065 to the Government Code, relating to elected officials, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1676, as amended, Fuentes. Elected officials: residency requirements.

Existing law imposes residency requirements on specified elected officials in California. The California Constitution provides that each house of the Legislature is the sole judge of the qualifications of its Members.

This bill would require that a person elected to a nonjudicial public office for a county, city, or school district, maintain his or her domicile,

as defined, within the jurisdiction within which voters are qualified to vote for the office during his or her term of office. The bill would require a person who violates this provision to immediately forfeit his or her office and would disqualify the person from holding any state or local public office for a period of 4 years. ~~The bill would provide that these provisions would apply to all persons holding a nonjudicial, public office for a county, city, or school district on or after the effective date of the bill.~~ As to persons ~~holding these offices~~ serving terms of office that commence on or after November 2, 2010, the bill would also make a violation of the domicile requirement punishable by either a civil penalty not to exceed \$1,000 or a fine not to exceed \$1,000, imprisonment in a county jail for no more than 6 months, or by both fine and imprisonment, *if it is established that the officeholder moved his or her domicile out of the jurisdiction of the office with the intent of retaining the office and misleading the voters within the jurisdiction to believe that he or she maintains his or her domicile within the jurisdiction of the office.* The bill would authorize enforcement of its provisions by the Attorney General; ~~or the district attorney or the county counsel of a county for a violation involving a nonjudicial public office whose territory is located wholly or partially within that county, or by the city attorney of a city for a violation involving a nonjudicial public office whose territory is located wholly or partially within that city.~~

~~The bill would also provide that Members of the Legislature should be domiciled in the districts that they represent and that each house of the Legislature should review its rules relative to qualifications to hold office and amend those rules as appropriate.~~

By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1065 is added to the Government Code, to read:

1065. (a) Notwithstanding any other provision of law, a person elected to a nonjudicial public office for a county, a city, or a school district, shall continue to maintain his or her domicile within the jurisdiction in which voters are qualified to vote for the office during his or her term of office. A person does not violate this subdivision if, after being elected for a term of office, the boundaries of the jurisdiction in which voters are qualified to vote for the office are changed during that term of office so as to exclude his or her domicile.

(b) A person who violates subdivision (a) shall immediately forfeit his or her office and is disqualified from holding any state or local public office for a period of four years.

(c) (1) A *fraudulent* violation of subdivision (a) is punishable by one of the following:

(1)

(A) A civil penalty not to exceed one thousand dollars (\$1,000).

(2)

(B) By imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(2) *For purposes of this section, a fraudulent violation of subdivision (a) is established if an officeholder fails to retain his or her domicile in the jurisdiction of his or her office with the intent of retaining the office while domiciled outside the jurisdiction of the office and misleading the voters within that jurisdiction to believe that he or she maintains his or her domicile within the jurisdiction of the office.*

(d) An action to enforce this section may be brought by the Attorney General; ~~or the district attorney or county counsel of a county for a violation involving a nonjudicial public office whose territory is located wholly or partially within that county, or the city attorney of a city for a violation involving a nonjudicial public office whose territory is located wholly or partially within that city.~~

(e) ~~Subdivisions (a) and (b) apply to all persons holding a nonjudicial public office for a county, city, or school district on~~

1 ~~or after the effective date of the statute that added this section.~~  
2 Subdivision (c) applies only to ~~persons holding these offices under~~  
3 terms of office that commence on or after November 2, 2010.

4 (f) For purposes of this section, “domicile” shall have the same  
5 meaning as defined in ~~subsection~~ *subdivision* (b) of Section 349  
6 of the Elections Code.

7 SEC. 2. The provisions of this section are severable. If any  
8 provision of this section or its application is held invalid, that  
9 invalidity shall not affect other provisions or applications that can  
10 be given effect without the invalid provision or application.

11 ~~SEC. 3. The Legislature hereby finds and declares that, in order~~  
12 ~~to ensure that Members of the Legislature adequately and~~  
13 ~~effectively represent their constituents, those elected to the~~  
14 ~~Legislature should be domiciled in the districts that they are elected~~  
15 ~~to represent. As each house of the Legislature judges its rules~~  
16 ~~relative to the qualifications to hold office pursuant to Section 5~~  
17 ~~of Article IV of the California Constitution, each house of the~~  
18 ~~Legislature should review its rules relative to qualifications to hold~~  
19 ~~office and should amend those rules as appropriate.~~

20 ~~SEC. 4.~~

21 SEC. 3. No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section 17556 of  
27 the Government Code, or changes the definition of a crime within  
28 the meaning of Section 6 of Article XIII B of the California  
29 Constitution.

30 ~~SEC. 5.~~

31 SEC. 4. This act is an urgency statute necessary for the  
32 immediate preservation of the public peace, health, or safety within  
33 the meaning of Article IV of the Constitution and shall go into  
34 immediate effect. The facts constituting the necessity are:

35 Because existing law is unclear as to whether a public official  
36 must be domiciled in the jurisdiction in which voters are qualified  
37 to vote for the office during his or her incumbency in the office,  
38 it is necessary that this act take immediate effect.

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2 CORRECTIONS:  
3 Text—Page 3.  
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